

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DEHESA ELEMENTRY SCHOOL
DISTRICT, COMMUNITY MONTESSORI
CHARTER SCHOOL.

OAH Case No. 2016030188

ORDER FOR SUPPLEMENTAL
DECLARATIONS REGARDING
MOTION FOR STAY PUT

On April 26, 2016, Student filed a motion for stay put. On May 2, 2016, Respondents jointly filed an opposition to the motion for stay put. On May 2, 2016, Student filed a response to Respondents' opposition.

APPLICABLE LAW

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (20B06)¹; Ed. Code, § 56505 subd. (d).) This is referred to as “stay put.” For purposes of stay put, the current educational placement is typically the placement called for in the student’s individualized education program, which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

DISCUSSION

Student and Respondents both attached copies of what they refer to as Student’s last agreed upon and implemented IEP dated October 6, 2015. The IEP’s are virtually identical except for the Special Education and Related Services page. Student’s copy of the IEP contained in Exhibit 1 at page 12 indicates that Student was offered specialized academic instruction for 180 minutes four times per week for a total of 720 minutes weekly. It also indicates that these services were offered in a group setting in a separate classroom in a public integrated facility. The IEP also offers Student 45 minutes per week of speech and language services.

¹ All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

Respondent's version of the IEP contained in their Exhibit 1 at page 12 includes only speech and language services and no box for specialized academic instruction. In all other respects the IEP's appear identical. This discrepancy must be addressed before a ruling on Student's stay put motion can be issued.

ORDER

1. By close of business on Tuesday, May 10, 2016, the parties shall submit declarations and accompanying briefs addressing the discrepancy regarding the attached IEP's.

2. The parties shall also explain their respective positions regarding which version of the IEP dated October 6, 2015, was actually agreed upon and implemented.

3. Declarations attached by Student shall also indicate specifically when, where, and how Parents were provided the copy of the IEP attached to Student's motion for stay put.

IT IS SO ORDERED.

DATE: May 4, 2016

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings